

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 4:12-CR-1-4
Danville, Virginia
February 19, 2013

QUENTIN DWAYNE McNEBB,

Defendant.

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE JACKSON L. KISER
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Government:

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For the Defendant:

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Registered Diplomate, Realtime Reporter
U.S. District Court
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Lynchburg, VA 24504
434-847-5722, ext. 3

Proceedings recorded by mechanical stenography;
computer-assisted transcription.

1 (Call to Order of the Court at 10:55 a.m.)

2 THE COURT: Good morning, folks.

3 Both sides ready to proceed with Mr. McNebb?

4 MR. PEARSON: Yes, Your Honor.

5 THE COURT: All right. I'm aware of the fact that
6 there is a motion for substantial assistance, but I will
7 make the required findings first.

8 I will adopt the report as written. There are no
9 prefiled objections.

10 Each count attained a base offense level of 43.
11 And there is an adjustment for multiple counts. The
12 adjustment produces a total number of units of two. And
13 that is added to the 43, producing a combined adjusted
14 offense level of 45. Three points' credit for accepting
15 responsibility, producing a total offense level of 42.

16 There are ten criminal history points, producing a
17 category V criminal history.

18 With an offense level of 42 and a criminal history
19 of V, the custody range under the guidelines is 360 months
20 to life; the supervised release range is two years to life;
21 the fine range is 25,000 to \$250,000; and a special
22 assessment of \$200.

23 Having made those findings, Mr. Wolthuis, I'll hear
24 you on your motion for substantial assistance.

25 MR. WOLTHUIS: Your Honor, if it please the Court,

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1 what I would like to do is call my agent just briefly for
2 some matters that may relate probably more to our
3 recommendation than the substantial assistance motion.

4 THE COURT: All right, sir. That's fine.

5 MR. WOLTHUIS: I call Special Agent Mike Cilento.

6 MIKE CILENTO, GOVERNMENT'S WITNESS, SWORN

7 THE WITNESS: Good morning, Your Honor.

8 THE COURT: Good morning.

9 DIRECT EXAMINATION

10 BY MR. WOLTHUIS:

11 Q. Special Agent Cilento, would you please identify
12 yourself for this Court.

13 A. Yes. Special Agent Mike Cilento, Special Agent ATF,
14 Roanoke.

15 Q. And how long have you been with the ATF?

16 A. Approximately 11 years.

17 Q. And were you the lead federal investigator on the case
18 that Mr. McNebb now stands before the Court?

19 A. Yes, I was.

20 Q. And as lead investigator, did you have a chance to
21 personally interview many, if not most, of all of the
22 witnesses and the defendants in the case in the preparation
23 of this case for trial?

24 A. Yes, I did.

25 Q. And what I would like to do is ask you, first of all,

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1 do you recall when you first interviewed Mr. McNebb as a
2 part of this case?

3 A. Yes, I do.

4 Q. And what was that date?

5 A. That was 3/10/2010.

6 Q. And as a part of that interview, was he -- was it
7 inquired of him whether or not he was actually a member of
8 the Nine Trey Blood gang at that time?

9 A. Yes, it was.

10 Q. And what was his indication to you at that time?

11 A. On that date Mr. McNebb stated that he's affiliated
12 with the Bloods, but not a member, on that date.

13 Q. And then he was brought before the grand jury roughly
14 15 days later; is that correct?

15 A. Correct.

16 Q. And on that occasion did he restate that he was an
17 associate, but not a gang member?

18 A. Correct.

19 Q. And then, as the investigation went further, did you
20 gather more information that he was an active member of the
21 gang?

22 A. Yes, we did.

23 Q. And did -- was Mr. McNebb brought back before the grand
24 jury and reinterviewed on January the 13th, 2011?

25 A. Yes, he was.

1 Q. And was Mr. McNebb more forthcoming at that time about
2 his actual relationship or membership in the gang?

3 A. Yes, he was.

4 Q. And at that time did he acknowledge he was a gang
5 member?

6 A. He did. He stated he was a captain in the gang.

7 Q. And did he also point out that he had been, quote,
8 blessed into the gang, as opposed to beat in, as a function
9 of his age?

10 A. That's what he said, yes.

11 Q. Now, as a part of your investigation, did you have an
12 occasion to interview a woman by the name of Courtney
13 Wright?

14 A. Yes, I did.

15 Q. And do you recall what the date was of that interview?

16 A. The interview in question I believe was 5/25/2010.

17 Q. And was she also brought before the grand jury about
18 the 7th day of October, 2010?

19 A. Yes, she was.

20 Q. And at both that interview and that grand jury, was she
21 asked about her knowledge or exposure to the defendant,
22 Mr. McNebb?

23 A. Yes, she was.

24 Q. And did she describe a particular meeting of the gang
25 where Mr. McNebb appeared to have a leadership role?

1 A. She did. She said that at one of these meetings that
2 they had -- she stated when "Fatal" was caught in Michigan,
3 the Bloods had a meeting to discuss what was going to happen
4 with the gang. And she stated that during that meeting that
5 "QB," Mr. McNebb, seemed to be in charge of that meeting.

6 Q. And did he make any statement about his involvement or
7 longevity with the gang?

8 A. Her statement was that "QB," Mr. McNebb, made a comment
9 during that meeting, stated, "I have been banging longer
10 than most of you have been alive."

11 Q. And did you, as a part of this investigation, also have
12 a chance to interview the codefendant, one of the actual
13 shooters, Keith "Fatal" Hairston?

14 A. Yes, I did.

15 Q. And did you speak with Mr. Hairston about what
16 knowledge Mr. McNebb gained about the robbery before it took
17 place?

18 A. Yes, I did.

19 Q. And was that interview on about the 13th day of May,
20 2010?

21 A. One second. Correct. 5/13/2010.

22 Q. And that was after Mr. Hairston was arrested in
23 Michigan and brought back and given counsel; is that
24 correct?

25 A. That is correct.

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1 Q. And what did Mr. Hairston advise that he had told
2 Mr. McNebb of what was going to happen that day, when the
3 murder took place?

4 A. Mr. Hairston stated that when all of the individuals in
5 question got into Mr. Armour's Volvo in Eden, North
6 Carolina, he made a statement to the group that "We got a
7 lick," which is a street slang for "We have a robbery." And
8 that Mr. McNebb looked at Mr. Hairston and made the
9 statement, "Enough said."

10 Q. And what did you take "Enough said" as to mean?

11 A. "I understand what you are saying and, you know, let's
12 do it."

13 Q. Basically an acknowledgment --

14 A. An acknowledgment that they understood what he was
15 talking about and what the plan was.

16 Q. And he didn't ask to get out of the car or anything at
17 that point?

18 A. No.

19 Q. And was there any discussion in or around that time
20 that Mr. McNebb was advised that he would share in the
21 proceeds from the robbery of the marijuana?

22 A. Mr. Hairston stated that when he told the group,
23 specifically Mr. McNebb, that they had a lick and he stated,
24 "Whatever I get from the robbery, I will split with you,"
25 meaning the group.

1 Q. And then going back to Mr. McNebb's very first
2 interview on the 10th of March, 2010, did he acknowledge to
3 you at that point that he fully expected to receive a share
4 of the robbery proceeds?

5 A. Yes. According to Mr. McNebb's statement, he stated
6 that Mr. Hairston told them, "We're about to hit a lick.
7 We're going get V." He told them, "You-all post up and come
8 back and get us. You-all are going to get some weed from
9 this." Mr. McNebb further stated that he understood the
10 plan that they were going to rob Von for the marijuana and
11 they were all going to split it.

12 Q. Now, drawing your attention to Mr. McNebb's second
13 grand jury testimony on the 13th day of January, 2011, I
14 believe page 14 of that document, did Mr. McNebb explain to
15 the grand jury, even though he wasn't the shooter or the
16 driver, kind of what his role was in the car on that day as
17 a part of this robbery?

18 A. Yes, he did. He stated that they got to the bottom of
19 the hill at the stop sign and they got out, meaning
20 Mr. Hairston and Mr. Thomas. They said, "Let me out right
21 here and wait over at the top of the hill."

22 And the question was asked: "So they instructed you to
23 go and wait until they hit their lick?"

24 The answer was "Yes."

25 And he basically stated that it was everybody else's

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1 job just to do whatever was asked of them. He understood
2 that Mr. Thomas and Mr. Hairston were going to actually
3 commit the robbery, and that him and Mr. Armour were there
4 to do whatever was asked of them.

5 Q. Now, after the robbery, did you -- or, excuse me, as a
6 part of your investigation, did you have a chance to speak
7 to the codefendant, the second shooter, Tremain Thomas, on
8 the 7th day of April, 2010?

9 A. Yes, I did.

10 Q. And during that interview did you have a chance to talk
11 with Tremain Thomas about what Mr. McNebb's concerns were
12 following the robbery and murder as it related to the
13 marijuana?

14 A. Yes. Mr. Thomas stated that out of everybody involved
15 in this investigation, that Mr. McNebb was the most
16 concerned about the proceeds of the robbery. He wanted to
17 know where the marijuana was and when he was going to get
18 his cut.

19 Q. Did Mr. Thomas or anyone else in this investigation
20 ever indicate that Mr. McNebb was concerned about Mr. Murphy
21 or his family or what had happened as a result of this
22 robbery and murder?

23 A. No, he was not.

24 Q. Now, when you interviewed Mr. McNebb back in March of
25 2010, did he also acknowledge there was a conversation

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1 following the murder about where the drugs were?

2 A. Yes. Mr. McNebb stated that when him and Mr. Thomas
3 went back in North Carolina, in Durham, North Carolina, that
4 evening, that they had a conversation about what
5 Mr. Hairston got proceeds-wise. And Mr. McNebb stated that
6 Mr. Thomas said, "I believe he got it. It was so big he
7 couldn't take it. He left it in the woods," speaking of the
8 marijuana.

9 Q. So Mr. McNebb's version of that conversation as to who
10 said what was slightly different, but the fact of the
11 conversation he confirmed?

12 A. Correct.

13 MR. WOLTHUIS: Those are all the questions I have
14 of this witness, Your Honor.

15 THE COURT: Cross-examination by the defense?

16 CROSS-EXAMINATION

17 BY MR. PEARSON:

18 Q. Special Agent Cilento, did Mr. McNebb explain to you
19 why he first said he was only affiliated with the gang and
20 then later said he was a member of the gang?

21 A. I don't remember a specific reason why he said that,
22 no, sir.

23 Q. Do you recall him telling you that he was blessed into
24 the gang?

25 A. Yes, sir; I do recall that.

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1 Q. And -- I mean, how do people typically become a gang
2 member?

3 A. It has been my experience, with this gang and a few
4 others that I have dealt with, that the typical experience
5 for being initiated into the gang is to be beat in, meaning
6 you have to fight. In this case, with the Nine Treys, you
7 have to fight three people for 31 seconds. And that's
8 -- and if you make it through that, then you are in the gang
9 -- or that's the first step to being brought in.

10 THE COURT: Three people all at the same time?

11 THE WITNESS: Yes, sir.

12 And according to Mr. McNebb, he stated that he did
13 not have to go through that process; that because of his age
14 and because of his status, I guess, in the community, they
15 blessed him in. That was the first time I had ever heard of
16 that happening. Yes. So, yes, I do recall that
17 conversation, but I don't recall why he said -- he didn't
18 tell us in the first interview but told us later, to answer
19 your question.

20 BY MR. PEARSON:

21 Q. You mentioned Courtney Wright's name?

22 A. Correct.

23 Q. Is that a female?

24 A. Yes, it is.

25 Q. And did she have any charges that came out of this

1 investigation?

2 A. No, sir, not at this time.

3 Q. Not at the state level or federal level?

4 A. Yes, some state charges on this case, yes, sir.

5 Q. So she did have some involvement in this matter that
6 the state took care of; is that correct?

7 A. To my knowledge, yes, that has been adjudicated.

8 Q. And I think you had testified that she is the one that
9 mentioned "QB" being in charge of some meeting, discussing
10 "Fatal"?

11 A. That is correct.

12 Q. And, of course, you discussed Mr. Thomas' version being
13 different, I think, from Mr. McNebb's version as it applies
14 to the proceeds and the concern of the marijuana; correct?

15 A. The difference, sir, was not in the conversation. The
16 conversations were the same. The difference is Mr. McNebb
17 stated that this conversation happened at one location;
18 Mr. Thomas stated that this conversation happened at a
19 different location. But the elements of the conversation
20 were still the same.

21 Q. And is this the same Mr. Thomas that stands charged as
22 a codefendant?

23 A. Yes, sir, it is.

24 Q. That's the Mr. Thomas you are talking about?

25 A. Yes, sir, it is.

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1 Q. The first time that you met with Mr. McNebb, he was
2 incarcerated in prison; correct? Or do you recall?

3 A. He was incarcerated. I'm not -- I don't recall where
4 he was incarcerated at the time. I thought he was at the
5 Martinsville City Jail at the time.

6 Q. Okay. He was either, I guess, pulling time or about to
7 pull time on a state charge when you first met with him?

8 A. Yes, sir. He was -- at the time of this crime that
9 we're here for today, he was actually on the run on state
10 charges. And he had been picked up on those charges, I
11 believe, at that time.

12 Q. Those state charges don't have anything to do with
13 these federal charges?

14 A. No, sir.

15 Q. They were completely separate?

16 A. Yes, sir.

17 Q. All right. And so you met with him in March of 2010?

18 A. I did.

19 Q. You met with him again -- do you recall the date?

20 A. One second.

21 January 2011 I'm aware of, and there may be a third
22 occasion.

23 Q. So you possibly met with him three times, definitely
24 met with him twice?

25 A. Yes, sir, Mr. McNebb.

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1 Q. With Mr. McNebb.

2 A. Correct.

3 Q. He did not have counsel present during any of those
4 meetings?

5 A. I know he didn't during the first one. And I don't
6 believe he had an attorney during the second one. Yes, sir.

7 Q. He has also testified on two different occasions in
8 front of the grand jury?

9 A. That is correct.

10 Q. Special Agent Cilento, I do not have any other
11 questions for you.

12 A. Thank you.

13 THE COURT: Any redirect, Mr. Wolthuis?

14 MR. WOLTHUIS: No, Your Honor.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you, sir.

17 MR. WOLTHUIS: That would be our evidence, Your
18 Honor.

19 THE COURT: Let's address the issue of the motion
20 at this point.

21 MR. WOLTHUIS: Your Honor, I would make these
22 representations to the Court. And if we need to re-call
23 Agent Cilento, the defense or the Court certainly can do so.
24 But the basis of the motion for substantial assistance is
25 this: is that at the time we talked to Mr. McNebb the first

1 time and he went before the grand jury the first time, he
2 was cooperative and forthcoming, with the exception of the
3 fact of his gang membership. And he was able to confirm
4 many things that were important. One had to do with who the
5 actual participants were. Now, we had heard that from other
6 members of the conspiracy at this time, but things had not
7 solidified yet and we were still trying to corroborate and
8 pin things down.

9 He was also able to give us another version of the
10 sequence of events that helped us believe and understand
11 what had happened.

12 And, finally, the information he gave us had to do
13 with the role of the individuals participating in it,
14 because obviously there's a big difference if somebody is a
15 trigger person or not or a person is a leader or the
16 follower. And he was able to add to our understanding of
17 the events of that day.

18 He also has made himself available throughout. In
19 the event any of the defendants were to go to trial, it is
20 our assessment he would have been a substantial and valuable
21 witness.

22 The bottom line on this is that this Court has
23 previously noted that this type of assistance is not the
24 most valuable in the world. And we do not disagree with
25 that. But we do believe it is the kind of assistance that

1 does warrant a motion and does warrant the Court granting
2 such a motion.

3 And I think it is important that his assistance
4 does both assist the government and the Court in
5 understanding the particulars of this case and in avoiding
6 the possibility of a costly trial, preparation and trial,
7 that could have been but for his and other people's
8 willingness to testify.

9 So we would ask that the motion be granted on that
10 limited basis.

11 THE COURT: Response by the defense?

12 MR. PEARSON: May it please the Court.

13 Your Honor, we would also ask that you accept this
14 motion.

15 As you have heard from the government, on that very
16 first encounter with Special Agent Cilento, Mr. McNebb was
17 able to corroborate important information. He cooperated
18 from that point forward. He added additional information
19 that assisted in the investigation of this matter. At no
20 time did he withdraw his assistance or not follow through
21 with assistance in this matter. We ask that you take that
22 into account in considering the motion.

23 THE COURT: Well, as I indicated at the last
24 hearing for -- I guess it was Keith Hairston, the assistance
25 is minimal at best, but I will follow the same procedure and

1 grant the motion, but, in so doing, advise that I don't
2 think the assistance was extremely valuable to the
3 government. But I will grant the motion.

4 Having done that, I'll entertain any evidence that
5 the defense has to offer.

6 I have read the submission, Mr. Pearson, that you
7 sent and read the letters supporting Mr. McNebb. And I
8 would be glad to hear any additional evidence at this time.

9 MR. PEARSON: Your Honor, we would have no
10 additional evidence.

11 THE COURT: I'll hear argument at this time, from
12 the government.

13 MR. WOLTHUIS: Thank you, Your Honor.

14 If it please the Court, I would characterize this
15 case as being a team effort, and that Mr. McNebb was on the
16 team; he was suited up, on the bench, ready to play; and
17 that was his role in this offense.

18 Obviously the devastation of this murder, the
19 senseless murder, is profound. Not only is it to Mr. A.J.
20 Murphy, who lost his life, but to his family, who lost a
21 son, lost a father, lost a brother, a grandson, and also to
22 the community that not only lost a member, but to the
23 peaceability and safety of the community that was seriously
24 torn and disrupted by this murder.

25 I think it is important to try to put Mr. McNebb's

1 involvement in the context. And I would recite several
2 factors that I think would help to do that.

3 Number one, this was a gang killing. Number two,
4 Mr. McNebb was a member of the gang. According to Courtney
5 Wright, he was a member of the gang who described himself as
6 "having been banging longer than most of you have been
7 alive."

8 Mr. McNebb also has a serious criminal record: as
9 the Court has already noted, ten criminal history points,
10 with a category of V, multiple felonies, multiple drug
11 felonies, and at least one of those drug felonies involved
12 the possession of a firearm.

13 This case also arose while Mr. McNebb was a
14 fugitive from justice in Virginia, hiding out in North
15 Carolina. And it is interesting to notice what -- according
16 to Keith Hairston, what his response was when he found out
17 that they weren't just going to Virginia to procure
18 marijuana, but they were going to rob somebody, and he said,
19 "Enough said. I'm all in. I'm ready to play, Coach"; as
20 Mr. McNebb told the grand jury, that he basically was there
21 to do whatever was asked of him of the gang leaders.

22 And it is interesting what his reaction was.
23 Somebody has been killed, and his reaction appears to have
24 been, from what he said -- or what Mr. Thomas said, that his
25 concern was not with the death of another individual, but

1 with his share -- paltry share of this 10 or 12 pounds of
2 marijuana.

3 Now, there are some mitigating facts that I would
4 point out to the Court in this case. It is important to
5 notice that Mr. McNebb was not the one who planned this
6 robbery and murder. He was not the trigger man. There
7 possibly may have been some element of coercion or peer
8 pressure, because he was a captain in the gang, being
9 ordered by the generals. But I think that in some way is
10 softened by the fact that he's older than these other guys
11 and hopefully would possess greater or deeper judgment.

12 It is important to note that he is the only person
13 charged and convicted in this case who actually didn't do
14 anything except agree with the enterprise and make himself
15 available to act if called upon to do so.

16 And the final factor that would be suggestive of
17 mitigation, to the extent that it is a factor, would be the
18 substantial assistance motion that the Court has just
19 considered.

20 All of that being said, Your Honor, I would say
21 that this was a team effort. McNebb was there on the team,
22 ready to act. And while it is notable that he was not one
23 of the shooters or planners, it certainly does not take
24 anything away from the seriousness of this offense or his
25 participation in it.

1 The plea agreement in this case, Your Honor -- and
2 I would ask the Court to follow the plea agreement -- called
3 for a minimum of five years and a maximum of 20 years. And
4 I would suggest to the Court that a sentence toward the
5 upper end of that range may well be appropriate in this
6 case.

7 Thank you.

8 THE COURT: Mr. Pearson.

9 MR. PEARSON: May it please the Court.

10 These are always difficult cases. We're dealing
11 with real life, real death. You know, this is not some show
12 on television. There's real pain involved. You have, you
13 know, one life extinguished and you have another life
14 ruined.

15 The case, from our point of view, is more about
16 relative culpability than anything else. That was the
17 essential argument in the memorandum previously filed in the
18 court. We would stand on the argument put forth in that
19 sentencing memo.

20 We would ask the Court to consider directing
21 Mr. McNebb into the drug treatment program.

22 We would ask for him to be placed at Butner, North
23 Carolina, and for any other recommendations that the Court
24 believes would be beneficial to him in his time that he
25 receives.

1 We would ask for the Court to consider a sentence
2 closer to the low end of the bracketed range.

3 Thank you, Your Honor.

4 THE COURT: Mr. McNebb, the law gives you the right
5 to address the Court personally, if you choose to. And if
6 you choose to, I'll hear you now.

7 Come to the lectern, please.

8 THE DEFENDANT: I would like to apologize to the
9 family to whom this may have affected. I would like to
10 apologize to my family for taking them through this ordeal.
11 I was in the wrong place at the wrong time, as often that
12 happens. I know the family. They know me. I'm not that
13 type of individual. Like I said, I was in the wrong place
14 at the wrong time.

15 I would like to extend my appreciation to my
16 lawyers for their representation on my behalf.

17 I now know that bad decisions can cause big
18 problems.

19 That's all I have to say.

20 THE COURT: All right. You may return to counsel
21 table.

22 Well, if it was a bad decision, it seems like,
23 Mr. McNebb, that you have made several of them in the past.
24 You have garnered ten criminal history points, with a
25 category V criminal history. You have gotten your points

1 basically on drug dealings.

2 And the substantial assistance, I think, is worth
3 consideration, but minimal consideration.

4 You and the government have agreed that the
5 sentence should fall between 60 and 240 months. But for
6 that agreement, I would have gone above 240 months, would
7 have probably gone to the bottom of the guidelines. But I'm
8 very conscious of the parties ought to get the benefit of a
9 bargain, so I will stay within the agreement, but only
10 because of the agreement.

11 If you'll stand up, Mr. McNebb, I'll impose the
12 sentence.

13 Based on the comments I have already made as well
14 as other considerations under Section 3553(a), it is the
15 judgment of the Court that you be confined by the Bureau of
16 Prisons to be imprisoned for a total of 240 months. And
17 that's 240 months on Count One and 240 months on Count
18 Three -- excuse me. That would be 60 months on Count One
19 -- I haven't done the math -- and 180 months on Count Three,
20 to be served consecutively.

21 I will recommend to the Bureau of Prisons that you
22 be given an opportunity to participate in a drug treatment
23 program. When you are released from confinement, you will
24 be on supervised release for five years. And that's five
25 years on each count, to run concurrently.

1 You'll have to report to the probation office in
2 the district in which you are released within 72 hours of
3 your release.

4 And while on supervised release, you must comply
5 with these mandatory conditions of supervision. You are not
6 to commit any further crimes, federal, state, or local. You
7 are not to unlawfully possess or unlawfully use a controlled
8 substance. You will be required to take a drug test within
9 15 days of your release from confinement and two required
10 tests thereafter, and they will be scheduled by the
11 probation officer. You are not to possess a firearm,
12 ammunition, destructive device, or any other dangerous
13 weapon; and you are to live in a residence free of those
14 items. You must cooperate with the probation officer in the
15 collection of DNA samples. And you must comply with the
16 standard conditions of supervision which have been adopted
17 by this court.

18 You'll be required to pay the \$200 special
19 assessment, which is due and payable as of now.

20 In addition to the mandatory drug testing, you will
21 participate in an ongoing testing and treatment program for
22 substance abuse as approved by the probation officer.
23 You'll be subject to a warrantless search and seizure of
24 your person and property -- and that would be at the
25 direction of the probation officer -- to determine whether

1 you have illegal drugs or firearms.

2 You shall not associate with any known gang members
3 or be in the presence of those members that are known to you
4 as gang members. You are not to wear or display or possess
5 any article that would evidence membership in a gang.

6 You are not to frequent any school grounds, unless
7 attending as a student at the school or the parent or legal
8 guardian of such child.

9 You don't have the ability to pay a fine, so one
10 will not be imposed.

11 According to the plea agreement, Count Two is
12 hereby dismissed.

13 Now, Mr. McNebb, in your plea agreement you waived
14 your right to appeal. And so far as I know, that waiver is
15 binding on you. Should you, however, decide that you want
16 to appeal your case for reasons sufficient to yourself, you
17 must undertake that appeal within 14 days from today. And
18 you may take the appeal by -- without prepayment of any fees
19 or costs. And you would be entitled to court-appointed
20 counsel. And should you be unable to -- or should your
21 lawyers be unable to file the notice of appeal for you, you
22 can do it yourself by simply calling the clerk's office,
23 telling the clerk that you want to appeal your case, and an
24 appeal will be noted for you.

25 Anything further, Mr. Pearson?

1 MR. PEARSON: No, Your Honor.

2 THE COURT: By the government?

3 MR. WOLTHUIS: No, Your Honor.

4 THE COURT: All right. You'll have to return to
5 the custody of the marshal.

6 MR. TURK: Thank you, Your Honor.

7 THE COURT: I understand we have a jury verdict.
8 So as soon as the courtroom is in proper order, you can
9 bring the jury in.

10 (Thereupon, these proceedings were adjourned at
11 10:40 a.m.)

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14 EXAMINATION INDEX

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MIKE CILENTO, GOVERNMENT'S WITNESS	
DIRECT BY MR. WOLTHUIS	3
CROSS BY MR. PEARSON	10

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21 I certify that the foregoing is a correct transcript
22 from the record of proceedings in the above-entitled matter.

23 /s/ Carol Jacobs
24 Official Court Reporter

April 4, 2014
Date

25